**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**APPELLATE SIDE.**

**SECOND APPEAL NO. 59 OF 2004.**

1. Smt.Girjabai Bhausaheb Rajapure,

2. Shri Hanmant Bhausaheb Rajapure,

3. Shri Mahadeo Bhausaheb Rajapure. ... Appellants.

V/s.

1. Sou.Sarubai Ganpat Kadam,

2. Shri Chandrakant Datta Rajapure,

3. Shri Dnyaneshwar Datta Rajapure,

4. Shri Dattatraya Bhausaheb Rajapure,

5. Sou.Mandakini Vitthal Shinde. ... Respondents.

Dilip Bodake for the appellants.

P.J.Shinde for respondent Nos.2 and 3.

**CORAM: D.B.BHOSALE, J.**

**DATED: 22nd November 2006.**

**P.C. :**
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. The concurrent findings recorded by the Courts below in a suit instituted by the appellants-plaintiffs seeking reconveyance of the sale-deed and for possession of the suit property are under challenge in the instant second appeal.

2. Mr.Bodake, learned counsel for the appellants submitted that looking to the facts of the case it is clear that the transaction in respect of the suit land between the father of the plaintiffs and defendant

No.1 was a sale with condition to repurchase/ mortgage as contemplated by the provisions contained in section 58 of the Transfer of Property Act, 1882 and, as such, the plaintiffs are entitled to decree of reconveyance of deed.

3. I perused the judgments of the Courts below with the assistance of the learned counsel appearing for the parties. Both the Courts below, after having considered the evidence of the parties and other material placed on record, have held that the transaction dated 30th January 1994 was sale out and out and it was not executed by way of security of the loan amount allegedly borrowed by the father of the plaintiffs from defendant No.1. The Courts below have also negatived the contention of the plaintiffs that they continued to be in possession even after execution of the said document. Even the case of reconveyance has also been rejected by the Courts below. It appears that defendant Nos.2 and 3, subsequently, purchased the suit land from defendant No.1. Both the Courts below have concurrently held that they are bonafide purchasers of the suit land.

4. In my opinion, no substantial question of law is involved in this appeal. Keeping that in view and considering that there are concurrent findings of fact recorded by the Courts below and since I find that there is sufficient material on record to sustain

those findings and considering the extremely limited jurisdiction of this Court under section 100 of Code of Civil Procedure, 1908 to disturb the findings of fact, this second appeal fails and is dismissed as such. No order as to costs.

**(D.B.BHOSALE, J.)**